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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 LESLIE RICE,

8 Plaintiff,

9 v.

10 CLARK COUNTY SCHOOL DISTRICT,

11 Defendant.

Case No. 2:16-cv-01709-JCM-PAL

ORDER

(Mot Re-Open Disc – ECF No. 34)

12 Before the court is Plaintiff's Motion to Re-Open Limited Discovery (ECF No. 34). The
13 court has reviewed the motion and Defendant's Response (ECF No. 51).

14 Plaintiff filed a Motion to Amend Complaint (ECF No. 32), which is pending before the
15 district judge. The motion to re-open discovery was filed the day after the motion to amend was
16 filed and seeks a 90-day period to conduct discovery regarding a second charge of discrimination
17 for which he recently received a right to sue letter from the EEOC. Defendant opposes the motion
18 because the deadline for moving to extend discovery expired in January under the court's
19 discovery plan and scheduling order and plaintiff has not shown either good cause or excusable
20 neglect for failing to request an extension before the expiration of the deadline. Additionally,
21 defendant points out that the description of discovery plaintiff's new counsel proposes is directed
22 to plaintiff's existing claims, as well as new claims he wishes to pursue if the motion to amend is
23 granted. New counsel took the case after all the discovery plan and scheduling order deadlines
24 had expired and, pursuant to LR IA 11-6 took the case subject to those deadlines. Defendant also
25 opposes the motion to amend.

26 The district judge will decide whether to grant or deny plaintiff's motion to amend. With
27 respect to plaintiff's existing claims, discovery closed February 6, 2017, except for plaintiff's
28 deposition. The court granted the parties' stipulation to extend discovery until April 25, 2017, for

1 the sole purpose of allowing defendant to take plaintiff's deposition, which the parties had agreed
2 to reschedule multiple times due to mutual scheduling conflicts. The court also granted the parties'
3 request to extend the deadline for filing dispositive motions and defendant timely filed a motion
4 for summary judgment (ECF No. 49) on June 14, 2017. Prior counsel was allowed to withdraw
5 and plaintiff received multiple extensions to retain counsel. Local Rule IA 11-6(d) is explicit:
6 "[d]ischarge, withdrawal or substitution of an attorney will not alone be reason for delay of pretrial
7 proceedings, discovery, the trial or any hearing in the case." Plaintiff has not shown good cause
8 or excusable neglect for failing to comply with the court's discovery plan and scheduling order
9 deadlines. Plaintiff essentially proposes starting over after defendant timely filed a motion for
10 summary judgment. The court will deny the motion without prejudice, and revisit the issue if, and
11 only if, the district judge grants the motion to amend the complaint.

12 **IT IS ORDERED** that Plaintiff's Motion to Re-Open Limited Discovery (ECF No. 34) is
13 **DENIED** without prejudice.

14 DATED this 20th day of June, 2017.

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18 PEGGY A. LEEN
19 UNITED STATES MAGISTRATE JUDGE
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